

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION THURSDAY, DECEMBER 11, 2014, NORTHLAND OFFICE BUILDING, THIRD FLOOR CONFERENCE ROOM**

9:00 A.M. – 12:05 P.M.

Planning Commission members in attendance: Tom Coombe  
Kurt Johnson  
Sonya Pineo  
Dave Pollock  
Roger Skraba  
Ray Svatos

Planning Commission members absent: Chris Dahlberg  
Diana Werschay

**Decision/Minutes for the following public hearing matters are attached:**

**NEW BUSINESS:**

- A. Derek Hawkinson/Coons Aggregate Supply, a conditional use permit to add permanent hot mix and recycling of asphalt and concrete to an existing permitted borrow pit. Lot 3, W ½ of NW ¼ ex ry r/w 2.80ac & ex 4.13 ac for Hwy; S3, T50N, R16W and SE¼ of NW ¼ lying W of ry ex Hwy rt of w & Lot 1 ex Nly 285 ft of Ely 208 ft & Lot 2 & SE ¼ of NE ¼ ex 4 58/100 ac for Hwy, S4, T50N, R16W (Solway).
- B. Barry Hannine, a conditional use permit for a general purpose borrow pit. SW1/4 OF SW1/4 EX HWY R/W and SE1/4 OF SW1/4 EX HWY R/W, S9, T62N, R20W (Linden Grove).
- C. Town of French, a conditional use permit for an 80 foot wireless internet relay tower. S1/2 of NE1/4 of SW1/4, T60N, R21W (French).

**OTHER BUSINESS:**

**Motion by Coombe/Johnson** to approve the minutes of the November 13, 2014 meeting.

**In Favor:** Coombe, Johnson, Pineo, Pollock, Skraba, Svatos – 6

**Opposed:** None – 0

**Motion carried 6-0**

*Jenny Bourbonais*, St. Louis County Planner, gave a one year review on Positive Energy, which had been approved at the December 12, 2013 Planning Commission hearing. She went through the conditions, noting that parking is still a concern. Board chair *Skraba* allowed three members of the audience to voice their concerns. *Jenny Bourbonais* will make a site visit during one of the events in order to ensure the parking condition is being met.

*Jenny Bourbonais*, St. Louis County Planner, presented Draft Ordinance 62, Articles VII and VIII, IX and X, including the changes from current Ordinance 46. The *Planning Commission* will meet on Tuesday, December 16, 2014, for a full review of Draft Ordinance 62.

### **Derek Hawkinson/Coons Aggregate Supply**

The first hearing item was for Derek Hawkinson / Coons Aggregate Supply, a conditional use permit to add permanent hot mix and recycling of asphalt and concrete to an existing permitted borrow pit, at 4607 Canosia Road, Saginaw, MN. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to add permanent hot mix and recycling of asphalt and concrete to an existing borrow pit.
- B. The borrow pit received conditional use approval in both 1992 and 2012.
- C. There are large tracts of undeveloped state land south of the proposed site.

*Mark Lindhorst* reviewed staff conclusions as follows:

1. The use conforms to the land use plan; Land Use Goals and Policies, Goal 3: *“Consolidate similar land uses and promote sound utilization of local sand and gravel resources including the reclamation of sand and gravel operations.”*
2. The use is compatible with the existing neighborhood. This is an established pit that has been in operation for over 50 years. It also received CUP approval for a portion of the pit in 1992 and 2012. There is no request for expansion or additional uses being proposed.
3. The use will not impede the normal and orderly development or improvement to the surrounding area. The borrow pit will be accessed off of a paved road, minimizing traffic and dust concerns associated with small township roads. The conditional use permit will require minimum standards to be followed, minimizing impacts to the surrounding residential properties. The applicant has already received permits from the Minnesota Pollution Control Agency (MPCA) for stormwater and emissions.
4. The location and character of the proposal is consistent with a desirable pattern of development. This site has historically been used as a borrow pit, has access to a paved road and is located in an area that has several permitted pits within one mile.

*Mark Lindhorst* noted two items of correspondence from Chester and Gloria Hanson and the Town of Solway against this proposal.

### **STAFF RECOMMENDATION**

Staff recommends the conditional use permit for a permanent hot mix plant and recycling of asphalt and concrete on an approved borrow pit be approved. The following conditions shall apply:

Conditions Precedent:

1. St. Louis County on-site sewage treatment regulations shall be followed.
2. The applicant shall obtain approval for access from the appropriate road authority.

Condition Concurrent:

1. All minimum standards of the county borrow pit section of the zoning ordinance shall be followed.

*Derek Hawkinson*, the applicant, stated that they purchased Coons Aggregate in July 2013. They had asphalt in there for the Duluth Haines Road project. They are applying for the CUP to not have to pay for a permit every time they have a road project. They have a permanent hot mix silo at their Grand Rapids pit. He does not know of anyone in Minnesota that owns a permanent hot mix plant. Their intention is to have a mobile pit that may sit in one spot for up to three weeks. Their plant will be on wheels. It takes three days to set up and take down a hot mix plant.

He added that there will be a maximum of 200 trucks per day which is all the plant can handle. The business currently runs an average of 150 trucks per day.

The *Planning Commission* discussed the following:

- A. Inquired what the Town of Solway is requesting. *Mark Lindhorst* stated that the Town of Solway would be okay with a 45-day (single-season) permit, but not the conditional use permit. The applicant's request is an allowed use under the 45-day permit but they would pay a performance standard fee every time they came in to get a permit. There is no difference between what a 45-day permit would allow and what a CUP would allow, other than the fee. The 45-day permit would be allowed if there whenever there is a road project.
- B. Inquired if the Solway Land Use Plan was referenced or not. *Mark Lindhorst* stated that this request does meet the comprehensive plan goals to consolidate borrow pits.

## **DECISION**

**Motion by Svatos/Coombe** to approve a conditional use permit to add a permanent hot mix plant and recycling of asphalt and concrete to an approved borrow pit based on staff conclusions and recommendations. The following conditions shall apply:

Conditions Precedent:

- 1. St. Louis County on-site sewage treatment regulations shall be followed.
- 2. The applicant shall obtain approval for access from the appropriate road authority.

Condition Concurrent:

- 1. All minimum standards of the county borrow pit section of the zoning ordinance shall be followed.

**In Favor:** Coombe, Johnson, Pineo, Pollock, Skraba, Svatos – 6

**Opposed:** None - 0

**Motion carried 6-0**

## **Barry Hannine**

The second hearing item was for Barry Hannine, a conditional use permit for a general purpose borrow pit, at 11451 Highway 1, Cook, MN. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for a general purpose borrow pit.
- B. The borrow pit will be located within 300 feet of the Little Fork River. The property slopes down towards the river on the other side of the driveway.
- C. There will be 10 to 20 loads hauled from the pit per day.

- D. Access to the pit is from an established private driveway. There is signed approval to use the driveway.
- E. There is a residence located on the parcel.
- F. There has been material removed from the borrow pit in the past. The pit is not currently in use.
- G. There is topography on the property. There is an upland that levels off down into wetland. The borrow pit will be located on the upland.

*Mark Lindhorst* reviewed staff conclusions as follows:

- 1. The use conforms to the land use plan. The plan states that, as a policy, all new commercial developments should be reviewed under the following guidelines:
  - a. *Access roads shall be adequate to handle anticipated traffic to protect public safety.* The property will utilize an existing driveway onto a paved public highway that can handle heavy trucks.
  - b. *SSTS issues are approved if applicable.* This is not applicable.
  - c. *Noise, odor, particulates, lighting and visual guidelines shall be developed that will degrade the environment of adjacent property owners.* There are no residential properties within a quarter mile of the proposed pit which should limit the amount of noise and visual impacts associated with this type of activity. The applicant is not proposing any lighting.
- 2. The use is compatible with the existing neighborhood. The area consists of large tracts of land with limited residential development. There was an approved Public Works borrow pit located directly across the road.
- 3. The use will not impede the normal and orderly development or improvement to the surrounding area. There is limited residential development in the area and the property will be accessed off of a paved road, limiting dust impact to the surrounding area.
- 4. The location and character of the proposal is consistent with a desirable pattern of development. The proposed use is located in a rural area with low density development.

*Mark Lindhorst* noted no items of correspondence.

### **STAFF RECOMMENDATION**

Staff recommends the conditional use permit for a general purpose borrow pit be approved. The following conditions shall apply:

Conditions Precedent:

- 1. The applicant shall obtain access approval from the appropriate road authority.

Condition Concurrent:

- 1. All minimum standards of the county borrow pit section of the zoning ordinance shall be followed.
- 2. The pit entrance shall be gated.
- 3. Maintain 50 foot setback from all wetlands.

*Barry Hannine*, the applicant, stated that he had samples drilled from the ground in order to determine the value of the property. There is value in the property. The use will be determined on what material would be needed.

One member of the audience spoke in support.

*John Hannine*, 11459 Highway 1, Cook, MN, stated that the family has been working on this for years. The proceeds from the pit will be used as schooling for the children. They want the children to benefit from the pit. The driveway was put in for the house in the back. He has his own 40 acre parcel in his own name and the driveway accesses that property. He would not object to a setback from the dwelling.

One member of the audience spoke with concerns.

*Eric Honkanen* spoke on behalf of Elliot Hannine, one of the property owners on the site. There is contested litigation in this matter with two separate proceedings currently in front of district court. Elliot Hannine lives on the property. The main concern is where the pit boundaries would be located and how close it will be to the dwelling. That would determine whether or not Elliot Hannine would support or oppose the borrow pit.

He asked if there is a setback from a pit boundary to a residence. *Mark Lindhorst* stated that there is no setback for residences on the same parcel as a borrow pit. The setbacks that are of concern are the side property line, the road and the river. There will be a gate on the entrance of the borrow pit which is not near the residence. There could be a specific setback requested.

The *Planning Commission* discussed the following:

- A. Inquired about the setback for a borrow pit to a river. *Mark Lindhorst* stated that in the borrow pit standards, the setback is 100 feet. With regards to this property, as long as the borrow pit does not move further east, there will be no issue with stormwater runoff.
- B. Inquired if there was an alternative access should the Minnesota Department of Transportation (MNDOT) deny the requested access. *Barry Hannine* stated there is an option to access the rear of the borrow pit using level ground.
- C. Inquired about the applicant and if they own the property. *Eric Honkanen* stated that the applicant has a remainder interest in a life estate. There are three brothers, including the applicant, that have an interest in the property.
- D. Inquired if all property owners of interest signed off on the borrow pit. *Mark Lindhorst* stated the information provided to staff was provided to the Planning Commission. There was a letter that signed off on the use of the driveway for the borrow pit. There was a letter from an attorney in regards to the applicant being able to use the property for a borrow pit. The property is owned by a family. The use is being requested by someone from that family. The issue here is if the use should be allowed on the property. Staff will not issue a permit until conditions are met. *Mary Anderson*, Land Use Manager, stated that the Planning Commission can require a setback for the residence as a condition.
- E. Inquired who would be able to sign the application. *Mary Anderson* stated that anyone could apply with the permission of the landowners. By submitting the application, the applicant would have what he needs in order to move forward with a CUP hearing. To staff's knowledge, there was no issues to prevent the hearing from taking place.
- F. Inquired if this was a divided interest or undivided interest. It was determined it was an undivided interest as the property is a life estate in all names and is not divided by property lines and legal descriptions. The mother owns the life estate, which gives her a

right to reside on the property. The three brothers own an undivided interest in the life estate.

- G. Discussed what a fair setback could be. It is not easy to make a decision if all owners are not in agreement. *Mary Anderson* stated that based on new testimony, if the Planning Commission is uncomfortable making a decision, they could deny this request without prejudice to obtain additional information.
- H. Inquired if a time limit should be added to the motion. *Mary Anderson* stated that applicants are usually asked to return within a year. If it goes longer than a year, the applicants would have to pay a new fee. The Planning Commission is looking for direction from the County Attorney as to who can apply and who needs provide a signature on the application.

## **DECISION**

**Motion by Johnson/Pineo** to deny a conditional use permit for a general purpose borrow pit without prejudice in order to check with the County Attorney's office to determine what would be needed to rehear the request.

**In Favor:** Coombe, Johnson, Pineo, Pollock, Skraba, Svatos – 6

**Opposed:** None - 0

**Motion carried 6-0**

## **Town of French**

The third hearing item is the Town of French, a conditional use permit for an 80 foot internet relay tower. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an 80 foot wireless internet relay tower.
- B. The tower will be located approximately 70 feet from the French Town Hall. The tower will be located on township property.
- C. A red light on the tower was requested for emergency purposes.
- D. This is an excellent location for a communication tower.

*Mark Lindhorst* reviewed staff conclusions as follows:

- 1. The French plan is silent on wireless communication towers.
- 2. The use is compatible with the existing neighborhood. The tower will be placed in a location that routinely will not be visible from established residential properties. French Township owns the property to the north and the nearest residence is located over 1,000 feet away.
- 3. The use will not impeded the normal and orderly development or improvement to the surrounding area. Due to the limited height of the tower, development could occur on adjacent parcels or other nearby parcels without having an impact upon them.
- 4. The location and character of the proposal is consistent with a desirable pattern of development. The tower will provide another choice for internet service which is a desirable and essentially needed feature particularly for year-round occupied homes.

*Mark Lindhorst* noted no items of correspondence.

## STAFF RECOMMENDATION

Staff recommends the conditional use permit for an 80 foot guyed wireless communication tower be approved. The following conditions shall apply:

1. Commercial communication tower minimum standards shall be followed.
2. The placement and design of the tower shall comply with applicable state and federal standards.
3. The applicant shall allow for emergency communications on the tower, if requested by St. Louis County.

*Bruce Sandberg*, Town of French supervisor, stated that the red light was requested by their emergency departments because of the helipad.

*Larry Jacobson*, 6491 McCormick Lake Road, Chisholm, stated that he is Chairman of the township's high speed internet committee. The committee serves residents in the townships of Great Scott, Balkan, French, Unorganized 59-21 and Bearville in Itasca County. The committee was started in 2011. He has been attempting to get high speed internet in this area since 2006.

One of the reasons that fiber optic cable is not feasible is because it would cost \$35,000 per mile, with \$7,000 per individual house to hook up. The committee has personally contacted CenturyLink, Paul Bunyan, Mediacom and other companies but not one would take care of this area. Wireless internet is the only option in this rural area. High-speed internet is a necessity.

The township committee would be in favor of a 100 foot tower to serve the area residences. This is because the signal may not be strong enough at an 80 foot height.

*Kent Fredeen*, Balkan Township, stated they have spent a lot of time in order to provide services for their people. Balkan Township petitioned for fiber optic lines or DSL. They had a three mile coverage area to test. He utilizes his existing small CB tower for internet coverage. This area needs this internet, not only for people but for businesses.

*Rod Oberg*, Northern Wireless Media, stated that the only thing that would change with a taller tower is the guyed wires and how far they go out.

The *Planning Commission* discussed the following:

- A. Inquired if Hibbing Taconite had been contacted to assist the committee with this project. *Larry Jacobson* stated that they have contacted Hibbing Taconite which did say that a tower could be placed on top of one of their dump piles.
- B. Inquired about the size of the communication tower. *Mary Anderson*, Land Use Manager, stated that staff is making changes to the ordinance that will change communication towers and whether or not they are public hearing. Ordinance 46 states that the tower can be up to 100 feet. The tower can be taller with a CUP if it can be demonstrated the tower can meet gaps in service.

## **DECISION**

**Motion by Svatos/Pineo**, to approve a conditional use permit for a guyed wireless communication tower with a height up to 100 feet, based on staff conclusions and recommendations. The following conditions shall apply:

1. Commercial communication tower minimum standards shall be followed.
2. The placement and design of the tower shall comply with applicable state and federal standards.
3. The applicant shall allow for emergency communications on the tower, if requested by St. Louis County.

**In Favor:** Coombe, Johnson, Pineo, Pollock, Skraba, Svatos – 6

**Opposed:** None – 0

**Motion carried 6-0**

**Motion to adjourn by Johnson. The meeting was adjourned at 12:05 p.m.**